

DOCKET NO.: 243099US8



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF:

Hiroyuki MENJO, et al.

SERIAL NO: 10/671,470

GROUP: 2617

FILED: September 29, 2003

EXAMINER:

FOR: WINNER DECIDING SYSTEM, WINNER DECIDING METHOD, WINNER  
DECIDING PROGRAM, AND COMPUTER-READABLE RECORDING  
MEDIUM

**LETTER**

Mail Stop DD  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith is a Chinese Office Action with English Translation and English  
Translation of text for the Examiner's consideration.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Bradley D. Lytle

Registration No. 40,073

Raymond F. Cardillo, Jr.

Registration No. 40,440

Customer Number

**22850**

Tel. (703) 413-3000  
Fax. (703) 413-2220  
(OSMMN 03/06)

## THE PATENT OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA

Address: 6 Xi Tu Cheng Lu, Haidian, Beijing

Post Code: 100088

Applicant:	NTT DOCOMO INC.	Date of Notification:
Attorney:	KANG JIANZHONG	Date: 18 Month: 8 Year: 2006
Application No.:	03160193.6	
Title of the Invention:	WINNER DECIDING SYSTEM, WINNER DECIDING METHOD, WINNER DECIDING PROGRAM, AND COMPUTER-READABLE RECORDING MEDIUM	

Notification of Second Office Action

1. ☒ The examiner received the response submitted by the applicant on 2006.7.4 to the first Office Action and further examination as to substance has been carried out on the above-identified patent application for invention on this new basis.
- ☐ According to the Reexamination Decision made by the Patent Reexamination Board of the Patent Office on \_\_\_\_\_ examination as to substance on the above-identified application has been resumed.
2. Further examination as to substance has been carried out based on the documents as specified below:
- ☐ The amended application documents attached to the response to the previous Office Action.
- ☒ The application documents based on which the previous examination was carried out and the substitution pages attached to the response to the previous Office Action.
- ☐ The application documents based on which previous examination was carried out.
- ☐ The application documents confirmed by the Reexamination Decision.
3. ☒ No further reference documents are cited in this Office Action.
- ☐ Below is/are the reference document(s) cited in this Notification:

No.	Number(s) or Title(s) of Reference(s)	Date of Publication (or the filing date of conflicting application)
		Date: __ Month: __ Year: __
1		Date: __ Month: __ Year: __
2		Date: __ Month: __ Year: __
3		Date: __ Month: __ Year: __
4		Date: __ Month: __ Year: __
5		Date: __ Month: __ Year: __

## 4. Conclusions of the Action:

- ☐ On the Specification:
- ☐ The amendments to the description do not comply with Article 33 of the Patent Law.
- ☐ The subject matter contained in the application is not patentable under Article 5 of the Patent Law.
- ☐ The description does not comply with Article 26 paragraph 3 of the Patent Law.
- ☐ The draft of the description does not comply with Rule 18 of the Implementing Regulations.

- ☒ On the Claims:
- ☐ The amendments to claims \_\_\_\_\_ do not comply with Article 33 of the Patent Law.
  - ☐ Claim(s) \_\_\_\_\_ is/are not patentable under Article 25 of the Patent Law.
  - ☐ Claim(s) \_\_\_\_\_ does/do not comply with the definition of inventions prescribed by Rule 2 paragraph 1 of the Implementing Regulations.
  - ☐ Claim(s) \_\_\_\_\_ does/do not possess the novelty as required by Article 22 paragraph 2 of the Patent Law.
  - ☒ Claim(s) 1-8 does/do not possess the inventiveness as required by Article 22 paragraph 3 of the Patent Law.
  - ☐ Claim(s) \_\_\_\_\_ does/do not possess the practical applicability as required by Article 22 paragraph 4 of the Patent Law.
  - ☐ Claim(s) \_\_\_\_\_ does/do not comply with Article 26 paragraph 4 of the Patent Law.
  - ☐ Claim(s) \_\_\_\_\_ does/do not comply with Article 31 paragraph 1 of the Patent Law.
  - ☐ Claim(s) \_\_\_\_\_ does/do not comply with the provisions of Rules 20-23 of the Implementing Regulations.
  - ☐ Claim(s) \_\_\_\_\_ does/do not comply with Article 9 of the Patent Law.
  - ☐ Claim(s) \_\_\_\_\_ does/do not comply with the provisions of Rule 12 paragraph 1 of the Implementing Regulations.

The detailed explanation of the above conclusions is set forth in the text portion of the Notification.

5. In view of the conclusions set forth above, the Examiner is of the opinion that:

- ☐ The applicant should make amendments to the application documents as directed in the text portion of the Notification.
- ☐ The applicant should expound in the response reasons why the application is patentable and make amendments to the application where there are deficiencies as pointed out in the text portion of the Notification, otherwise, the application will be rejected.
- ☒ The application contains no allowable invention, and therefore, if the applicant fails to submit sufficient reasons to prove that the application does have merits, it will be rejected.
- ☐

6. The followings should be taken into consideration by the applicant in making the response:

- (1) Under Article 37 of the Patent Law, the applicant should respond to the office action within 2 months counting from the date of receipt of the Notification. If, without any justified reason, the time limit is not met, the application shall be deemed to have been withdrawn.
- (2) Any amendments to the application should be in conformity with the provisions of Article 33 of the Patent Law. Substitution pages should be in duplicate and the format of the substitution should be in conformity with the relevant provision contained in "The Examination Guidelines".
- (3) The response to the Notification and/or revision of the application should be mailed to or handed over to the "Reception Division" of the Patent Office, and documents not mailed or handed over to the Reception Divisions have no legal effect.
- (4) Without an appointment, the applicant and/or his agent shall not interview with the Examiner in the Patent Office.

9. This Notification contains a text portion of 2 pages and the following attachments:

- ☐    cited reference(s), totaling    pages. ☐

Examination Dept. \_\_\_\_\_ Examiner: \_\_\_\_\_ Seal of the Examination Department

## Text Portion of the Second Office Action

Application No.: 031601936

After examination, the present application has the following defects:

1. Claim 5 seeks to protect a winner deciding method. Reference 1 (US6320495B1, published on November 20, 2001) has disclosed a treasure hunt game utilizing GPS equipped wireless communications devices, in which (see column 2 line 50—column 5 line 48 of the description and Figs.1-4 ) the following technical features have been specifically revealed: each player is equipped with a mobile wireless communication device (10), which incorporates a GPS receiver (11); a "gamemaster" computer program (12) is designed to run the treasure hunt; the player's GPS receiver (11) receives navigation data from GPS satellites (13) and determines player locations; player locations are transmitted back to the gamemaster (14) by the player's wireless communication devices; the gamemaster determines the next clue to be given to a player based upon the player's location; that next clue is then transmitted to the player (15) and displayed on the player's wireless communication device; the player proceeds based on the clue to the treasure; the first player to arrive at the treasure wins the game. It can be seen that, Reference 1 has disclosed most of the technical features of the technical solution as claimed in Claim 5. Claim 5 differs from Reference 1 only in "当選結果送信ステップ" and "予備情報は、当該予備情報の有効期限を示す期限情報又は当該予備情報の有効期間を示す期間を示す期間情報とも関連付けられており". Firstly, although reference 1 only discloses the step of deciding winner, it is a common knowledge for those skilled in the art to transmit the game result to the decided mobile devices and all the participants; secondly, using the valid term information or the period information of the valid period as a limiting condition or associating condition as a premise of setting or deciding a winner is also a common knowledge to those skilled in the art. Therefore, those skilled in the art would obtain the inspiration for the technical solution as claimed in Claim 5 by combining the common knowledge on the basis of Reference 1. That is to say, such a combination is obvious to those skilled in the art, does not have prominent substantive features and fails to represent a notable progress. Therefore, the technical

solution as claimed in Claim 5 does not possess inventiveness as required by Article 22.3 of the CPL (Chinese Patent Law).

2. Dependent Claims 6 and 7 further define Claim 5 as follows: "wherein the preliminary information includes at least image information related to the winning location" and "wherein the preliminary information includes at least sound information related to the winning location". Reference 1 has disclosed (see column 5, lines 4-8 of the description) that the first clue related to the treasure hunt location is a riddle. It is a common knowledge for those skilled in the art to adopt text, image and/or sound as the preliminary information. Therefore, those skilled in the art would obtain the inspiration for the technical solutions as claimed in Claims 6 and 7 by combining the common knowledge on the basis of Reference 1. That is to say, such a combination is obvious to those skilled in the art, does not have prominent substantive features and fails to represent a notable progress. Therefore, the technical solutions as claimed in Claims 6 and 7 do not possess inventiveness as required by Article 22.3 of the CPL either.

3. Dependent Claim 8 further defines claim 1, while reference 1 has disclosed (see column 3, lines 5-18; column 5, lines 4-8 of the description, and Fig. 1) that player locations are located and transmitted to the gamemaster, and the gamemaster sends the corresponding first clue. Therefore, the technical solution as claimed in Claim 8 does not possess inventiveness as required by Article 22.3 of the CPL either.

4. Claims 1-4 are apparatus claims corresponding to method Claims 5-8. Based on the comments of items 1-3 of this Office Action, the technical solutions as claimed in Claims 1-4 do not possess inventiveness as required by Article 22.3 of the CPL for the same reason.

For the above reasons, all the independent claims and their dependent claims of the present application lack inventiveness. Meanwhile, there are no other patentable substantive contents in the specification. Therefore, even if the applicant recombines and/or further defines the claims in accordance with the specification, the application still has no prospect to be granted a patent right. The examiner intends to reject the present application.

# 中华人民共和国国家知识产权局

邮政编码: 100037

北京市阜成门外大街2号万通新世界广场8层  
中国国际贸易促进委员会专利商标事务所  
康建忠

发文日期

申请号: 031601936



申请人: 株式会社 NTT 都科摩

E032613

发明创造名称: 赢家确定系统、方法、程序及其计算机可读记录介质

## 第 2 次审查意见通知书

1. ☒ 审查员已收到申请人针对国家知识产权局专利局发出的第 1 次审查意见通知书于 2006 年 7 月 4 日提交的意见陈述书, 在此基础上审查员对上述专利申请继续进行实质审查。

☐ 根据国家知识产权局专利复审委员会于 年 月 日作出的复审决定, 审查员对上述专利申请继续实质审查。

2. ☐ 申请人于 年 月 日提交的修改文件, 不符合实施细则第 51 条第 3 款的规定, 不能被接受; 申请人应在本通知规定的期限内提交符合要求的修改文件, 否则视为未答复审查意见通知书, 申请将被视为撤回。

3. 继续审查是针对下述申请文件进行的:

☐ 上述意见陈述书中所附的经修改的申请文件。

☒ 前次审查意见通知书所针对的申请文件以及上述意见陈述书中所附的经修改的申请文件替换页。

☐ 前次审查意见通知书所针对的申请文件。

☐ 上述复审决定所确定的申请文件。

4. ☒ 本通知书未引用新的对比文件。

☐ 本通知书引用下述对比文件(其编号续前, 并在今后的审查过程中继续引用)

编号

文件号或名称

公开日期 (或抵触申请公布日)

5. 审查的结论性意见:

☐ 关于说明书:

☐ 申请的内容属于专利法第 5 条规定的不授予专利权的范围。

☐ 说明书不符合专利法第 26 条第 3 款的规定。

☐ 说明书的修改不符合专利法第 33 条的规定。

☐ 说明书的撰写不符合实施细则第 18 条的规定。

☒ 关于权利要求书:

☐ 权利要求 不具备专利法第 22 条第 2 款规定的新颖性。

☒ 权利要求 1-8 不具备专利法第 22 条第 3 款规定的创造性。

☐ 权利要求 不具备专利法第 22 条第 4 款规定的实用性。

☐ 权利要求 属于专利法第 25 条规定的不授予专利权的范围。

☐ 权利要求 不符合专利法第 26 条第 4 款的规定。

☐ 权利要求 不符合专利法第 31 条第 1 款的规定。

☐ 权利要求 的修改不符合专利法第 33 条的规定。

☐ 权利要求 不符合专利法实施细则第 2 条第 1 款关于发明的定义。

☐ 权利要求 不符合专利法实施细则第 13 条第 1 款的规定。



21303

2002. 9



回函请寄: 100088 北京市海淀区蓟门桥西土城路 6 号 国家知识产权局专利局受理处收  
(注: 凡寄给审查员个人的信函不具有法律效力)

申请号 031601936

- ☐ 权利要求\_\_\_\_\_不符合专利法实施细则第 20 条的规定。  
☐ 权利要求\_\_\_\_\_不符合专利法实施细则第 21 条的规定。  
☐ 权利要求\_\_\_\_\_不符合专利法实施细则第 22 条的规定。  
☐ 权利要求\_\_\_\_\_不符合专利法实施细则第 23 条的规定。  
☐ \_\_\_\_\_

上述结论性意见的具体分析见本通知书的正文部分。

6. 基于上述结论性意见, 审查员认为:

- ☐ 申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。  
☐ 申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。  
☒ 专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。  
☐ \_\_\_\_\_

7. 申请人应注意下述事项:

(1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的 2 个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。

(2) 申请人对其申请的修改应符合专利法第 33 条和实施细则第 51 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。

(3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。

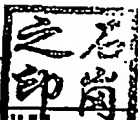
(4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

8. 本通知书正文部分共有 2 页, 并附有下列附件:

- ☐ 引用的对比文件的复印件共 \_\_\_\_\_ 份 \_\_\_\_\_ 页。  
☐ \_\_\_\_\_

审查员: 石岗(9304)

2006 年 7 月 31 日



审查部门 审查协作中心

21303

2002.8



回函请寄: 100088 北京市海淀区蓟门桥西土城路 8 号 国家知识产权局专利局受理处收  
(注: 凡寄给审查员个人的信函不具有法律效力)

## 第二次审查意见通知书正文

申请号：031601936

经审查，该申请存在如下缺陷：

- 1 权利要求5请求保护一种赢家确定方法，对比文件1（US6320495B1，公开日期：2001年11月20日）公开了一种利用配备有无线通信设备的GPS的寻宝游戏，其（参见其说明书第2栏50行—第5栏48行，图1—4）具体公开了：每一玩家配备有一移动无线通信设备（10），组合有GPS接收器（11），一“游戏主”计算机程序（12）被设计用于寻宝。玩家GPS接收器（11）从GPS卫星（13）接收导航数据并确定玩家位置。通过玩家无线通信设备，玩家位置被传送给游戏主（14）。游戏主根据玩家位置决定给玩家的下一线索。下一线索被传送给玩家（15）并被显示在玩家无线通信设备上。玩家根据线索前行，直至宝藏。第一个到达宝藏的玩家为胜利者。由此可见，对比文件1已经公开了权利要求5所请求保护的技术方案的大部分技术特征，它们的区别仅在于“获奖结果发送步骤”和“初始信息还与表示该初始信息的有效期限信息或表示用于表示该初始信息的有效期间的期间信息相关联”。首先，对比文件1尽管只公开确定胜利者的步骤，但将比赛结果发送至所确定的移动设备以及所有参与者，对本领域的技术人员来讲为公知常识；其次，将有效期限信息或有效期间的期间信息作为限定条件或关联条件，以作为设定或判定赢家的前提，对本领域的技术人员来讲亦为公知常识，因此，本领域技术人员会在对比文件1的基础上结合公知常识，而得到权利要求5所要求保护技术方案的启示，也就是说这样的结合对本领域的普通技术人员来讲是显而易见的，不具备突出的实质性特点和显著的进步，因此权利要求5所要求保护的技术方案不符合专利法第二十二条第三款有关创造性的规定。
- 2 从属权利要求6和7对权利要求5的进一步限定分别为“其中该初始信息包括至少与该获奖位置相关的图像信息”和“其中该初始信息包括至少与该获奖位置相关的声音信息”，对比文件1（参见第5栏第4—8行）公开了：与寻宝位置相关的第一线索为一谜语。而采用文字，图像和/或声音来作为初始信息对本领域的技术人员来讲为公知常识。因此，本领域技术人员会在对比文件1的基础上结合公知常识，而得到权利要求6和7所要求保护技术方案的启示，也就是说这样的结合对本领域的普通技术人员来讲是显而易见的，不具备突出的实质性特点和显著的进步，因此权利要求6



和7所要求保护的技术方案也不符合专利法第二十二条第三款有关创造性的规定。

- 3 从属权利要求8对权利要求1作了进一步限定，对比文件1（参见第3栏5-18行，第5栏4-8行，图1）公开了：玩家位置被定位并传送给游戏主，游戏主发送相应的第一线索。因此权利要求8所要求保护的技术方案也不符合专利法第二十二条第三款有关创造性的规定。
- 4 权利要求1-4为相应于方法权利要求5-8的装置权利要求，根据本审查意见通知书第1-3点的审查意见，同理权利要求1-4所请求保护的技术方案同样不符合专利法第二十二条第三款有关创造性的规定。

基于上述理由，本申请的独立权利要求以及从属权利要求均不符合专利法有关创造性的规定，同时说明书中也没有记载其他任何可以授予专利权的实质性内容，因而即使申请人对权利要求进行重新组合和/或根据说明书记载的内容作进一步的限定，本申请也不具备授予专利权的前景，审查员拟驳回本申请。

审查员：石岗

代码：9304

Y/R: FP03-0163-00CN-NT

O/R: II2032613

Dear sirs:

This is the last page of  
the second Office Action. We  
are sorry for the miss.

CCP1T

